

## REMARKS

### INTRODUCTION

In accordance with the foregoing, claims 1, 9, 17 and 18 have been amended. Claims 2-7 and 10-15 have been cancelled. Claims 1, 8, 9 and 16-19 are pending and under consideration.

### CLAIM REJECTIONS – 35 USC 103

Claims 1-7, 9-15, 17 and 18 were rejected under 35 USC 103(a) as being unpatentable over Palmer et al. (US 2,778,912) (hereinafter "Palmer") in view of Bonzagni et al. (US 2,030,047) (hereinafter "Bonzagni") or Wachtel (US 3,074,342) (hereinafter "Wachtel").

Claims 8 and 16 were rejected under 35 USC 103(a) as being unpatentable over Palmer or Bonzagni and further in view of Dundon (US 4,450,343) (hereinafter "Dundon").

Palmer discusses a toasting apparatus. In Palmer, the reflector 37, the heater wire 48 and its supporting strips 42 and 43 may be fabricated and tested as a unit prior to the assembly thereof to the toaster casing structure. Accordingly, the cost of the toaster is reduced and the manufacture facilitated. The support for the top of the completed unit in the toaster is provided by ears 59 formed on the partitions 17 and 18, each of the ears 59 being provided with downwardly facing slots 61 in which the upper side of the units 35 is fitted. The turned over projections are seated in the slots 61 for the positioning of the upper portion of the units 35. The lower projections 45 are seated in upwardly facing slots 62 provided in clips 63, the latter being secured to the partitions 17 and 18. The clip 63 at one end of the toaster is secured to the partition 17 by the self tapping screws 22 while the clip 63 at the opposite end is secured to the horizontal member 28 by screws. Palmer, 3:20-3:38 and Figures 1-5.

### Claims 1-8 and 19

Amended claim 1 recites: "...at least one elastic mounting unit to mount the heater on the reflecting plate through an elastic deformation thereof." Support for the amendments to claim 1 may be found in at least original claims 5-7. As in previous Office Actions, the present Office Action relies on Palmer to supply this feature of claim 1. Particularly, the Examiner relies on the projections 44 and 45 shown in Figure 3 of Palmer. In the Office Action, the Examiner notes that the projections 44, 45 of Palmer correspond to the elastic mounting units of claim 1 and the projections 44, 45 are made of "thin metal having an inherently elastic property."

It is respectfully submitted that inherency and obviousness are distinct concepts. See, as one example, *In re Spormann*, 363 F.2d 444, 150 USPQ 449 (CCPA 1966). The court noted in *Spormann* that “the inherency of an advantage and its obviousness are entirely different questions. That which may be inherent is not necessarily known. Obviousness cannot be predicated on what is unknown.”

In the present case, it is respectfully submitted that the projections 44, 45 of Palmer do not teach or suggest the elastic mounting units of claim 1. To begin with, the specification of Palmer does not describe the projections 44, 45 as being made of “thin metal.” Further, the structure of the toasting apparatus discussed in Palmer does not infer that the projections 44, 45 would inherently be elastic. To the contrary, the structure disclosed in Palmer would infer that the projections 44, 45 should be inelastic to retain their reverse bent shape. As previously argued, the reflector 37, heater wire 48, and supporting strips 42, 43 form a unit 35, which is preferably pre-fabricated for testing. In particular, the projections 44, 45 hold the strips 42, 43 to the reflector 37 by the virtue of their reverse bent shape, thereby preventing the strips 42, 43 from moving in a horizontal direction. Nothing in Palmer suggests that any elastic property of the projections 44, 45 is relied on to hold the strips 42, 43 in place. Regarding vertical motion, the strips 42, 43 are held in place by flanges 39, which also appear not to require elasticity.

In contrast to the cited prior art, the elastic mounting unit recited in claim 1 allows a heater to be assembled to a cooking unit in a simple manner, thereby reducing an assembly time of the cooking apparatus and consequently improving an efficiency of production.

Amended claim 1 further recites: “...the fixed portion of the elastic part has a support part that is projected to support a back of the heater so as to firmly support the heater.” It is further respectfully submitted that none of the relied upon references discuss this feature of claim 1.

Claims 2-7 have been cancelled. Claims 8 and 19 depend on claim 1 and are therefore believed to be allowable for at least the foregoing reason.

Withdrawal of the foregoing rejection is requested.

#### **Claims 9-18**

Amended claim 9 recites: “...a plurality of elastic mounting units to mount the respective heaters on the respective plates through an elastic deformation thereof.” Support for the amendments to claim 9 may be found in at least original claims 13-15. As in previous Office

Actions, the present Office Action relies on Palmer to supply this feature of claim 9. Particularly, the Examiner relies on the projections 44 and 45 shown in Figure 3 of Palmer. In the Office Action, the Examiner notes that the projections 44, 45 of Palmer correspond to the elastic mounting units of claim 9 and the projections 44, 45 are made of "thin metal having an inherently elastic property."

It is respectfully submitted that the projections 44, 45 of Palmer do not teach or suggest the elastic mounting units of claim 9. To begin with, the specification of Palmer does not describe the projections 44, 45 as being made of "thin metal." Further, the structure of the toasting apparatus discussed in Palmer does not infer that the projections 44, 45 would inherently be elastic. To the contrary, the structure disclosed in Palmer would infer that the projections 44, 45 should be inelastic to retain their reverse bent shape. As previously argued, the reflector 37, heater wire 48, and supporting strips 42, 43 form a unit 35, which is preferably pre-fabricated for testing. In particular, the projections 44, 45 hold the strips 42, 43 to the reflector 37 by the virtue of their reverse bent shape, thereby preventing the strips 42, 43 from moving in a horizontal direction. Nothing in Palmer suggests that any elastic property of the projections 44, 45 is relied on to hold the strips 42, 43 in place. Regarding vertical motion, the strips 42, 43 are held in place by flanges 39, which also appear not to require elasticity.

In contrast to the cited prior art, the elastic mounting unit recited in claim 9 allows a heater to be assembled to a cooking unit in a simple manner, thereby reducing an assembly time of the cooking apparatus and consequently improving an efficiency of production.

Amended claim 9 further recites: "...the fixed portion of the elastic part has a support part that is projected to support a back of the heater so as to firmly support the heater." It is further respectfully submitted that none of the relied upon references discuss this feature of claim 9.

Claims 10-15 have been cancelled. Claims 16-18 depend on claim 9 and are therefore believed to be allowable for at least the foregoing reason.

Withdrawal of the foregoing rejection is requested.

**CONCLUSION**

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: July 6, 2007

By: / Gregory W. Harper /  
Gregory W. Harper  
Registration No. 55,248

1201 New York Avenue, N.W., 7th Floor  
Washington, D.C. 20005  
Telephone: (202) 434-1500  
Facsimile: (202) 434-1501